

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Leroy K. Wheeler,)	
)	
Plaintiff,)	
)	ORDER RE COLLECTION OF
vs.)	APPELLATE FILING FEE
)	
Robyn T. Schmalenberger, Patrick Branson,)	
and Leann K. Bertsch,)	
)	Case No. 1:11-cv-079
Defendants.)	

Plaintiff Leroy K. Wheeler, an inmate at the North Dakota State Penitentiary, was granted leave to proceed *in forma pauperis* in the above-entitled action on October 11, 2011. On August 8, 2012, Wheeler filed a motion for preliminary injunction. On December 20, 2012, the court denied the motion. On December 27, 2012, Wheeler appealed the denial to the United States Court of Appeals for the Eighth Circuit. On April 8, 2013, the Eighth Circuit issued a judgment summarily affirming this court's decision denying the motion for preliminary injunction and remanding for the assessment and collection of the full \$455.00 appellate filing and docketing fee by this court.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The full \$455.00 filing and docketing fee shall be paid to the Clerk of this Court from Plaintiff's inmate spending account or release aid account in accordance with 28 U.S.C. § 1915(b)(2), which requires the prisoner to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. Such payment shall be made each time the amount in the inmate spending account or release aid account exceeds \$10.00 and continue until the statutory fee of \$455.00

is paid in full.

4. A notice of this obligation shall be sent to Plaintiff and the appropriate prison official.

Dated this 30th day of April, 2013.

/s/ Charles S. Miller, Jr. _____
Charles S. Miller, Jr.
United States Magistrate Judge